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PRACTICE LIMITED TO MATTERS BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

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July 16, 1998

Ms. Magalie Salas, Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

RECEIVED

JUL 20 1998

RE: Petition to Amend the FM Table of Allotments
Avon, North Carolina
Avon Broadcasting Company, Petitioner

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


Dear Ms. Salas:

Transmitted herewith, on behalf of Avon Broadcasting Company, through counsel, is an original and six (6) copies of a "Petition to Amend the FM Table of Allotments" (47 C.F.R. 73.202(b)).

Avon Broadcasting Company requests Commission consideration regarding the addition of a first, local broadcast service at Avon, North Carolina.

Should any questions arise concerning this matter, please contact the undersigned, directly.

Respectfully submitted,



Richard J. Hayes, Jr.,
Counsel to
Avon Broadcasting Company

RJH:tb
Enclosures

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

RECEIVED

JUL 20 1998

IN THE MATTER OF:

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

AMENDMENT OF SECTION 73.202(B)
TABLE OF ALLOTMENTS
FM BROADCAST STATIONS
AVON, NORTH CAROLINA

BC DOCKET NO:
RM NO:

TO: CHIEF, ALLOCATIONS BRANCH

PETITION FOR RULE MAKING

COMES NOW, Avon Broadcasting Company, through counsel, and pursuant to the provisions of Section 1.401 of the Commission's Rules (47 C.F.R.1.401) requesting that the Table of Allotments in Section 73.202(b) of the Federal Communications Commission's Rules and Regulations be amended.

Avon Broadcasting Company hereby requests that the FM Table of Allotments in Section 73.202(b) be amended to include a first, local broadcast service at Avon, North Carolina on Channel 294A. Avon Broadcasting Company requests that the FM Table of Allotments be amended as follows:

Location	Present	Proposed
Avon, North Carolina	-----	294A

AVON BROADCASTING COMPANY
PETITION FOR RULE MAKING
PAGE TWO

There are compelling, public interest justifications for granting this rule making, and in support thereof, the following is shown:

1. PRELIMINARY STATEMENT

A. FIRST, LOCAL BROADCAST SERVICE

The purpose of this request is to provide a much needed, first local broadcast service to the community of Avon, North Carolina. At present, Avon, North Carolina does not enjoy the service of either an AM or FM facility within its community. The Petitioner proposes that the Commission amend the FM Table of Allotments to allot Channel 294A to Avon, North Carolina as that community's first, local broadcast service.

Avon is a fast growing community with numerous local businesses and community services. Avon has a current, fulltime population of 600 persons according to the Avon property Owner's Association. In the spring, summer and autumn months, the population swells to several thousand persons. The population turnover during the three seasonal months reaches the tens of thousands. The proposed facility will encompass an area of 2,513.1 square kilometers. The total number of fulltime residents served by the facility will be 3,814. Clearly, this proposed facility will provide first local service to a substantial population and will further the Commission's goal of diversity of expression in the marketplace.

Avon is a substantial community with its own post office, fire department and numerous businesses. For allocation purposes, Avon is a bona fide community. Over the past ten years, Avon, North Carolina has grown from a sleepy coastal community in the center of Hatteras Island to a thriving, busy hub of island commercial and recreational activity. Several major retailers have opened large, full service stores in Avon and the local and tourist populations have grown, considerably. There are numerous retail stores, restaurants, recreational businesses, real estate companies and private homes. Avon, one of the oldest communities on the Outer Banks has become one of the largest communities on Hatteras Island. Clearly, there is a demonstrated need for a local broadcast service in Avon.

A. EFFICIENT USE OF SPECTRUM

Such an amendment of the FM Table of Allotments would further the Commission's goal of providing a more efficient use of the FM Spectrum by providing a local FM broadcast service at Avon, North Carolina. The Amendment of Section 73.202(b) of the Commission's Rules to include Channel 294A at Avon, North Carolina would provide coverage to a substantial area and population. Certainly, the citizens of Avon and, additionally, those citizens in the predicted 1.0 mV/m contour of the proposed facility, would benefit from a first, full time, local FM broadcast service. No other person or community has expressed any interest in this channel at Avon, North Carolina.

II. ENGINEERING CONSIDERATIONS

A. Substantial Area to Receive Additional Service

Petitioner's engineering exhibit, as attached, provides an analysis of a complete search of the FM band. That study concludes that Channel 294A would provide city-grade coverage to Avon, North Carolina. Channel 294A could be allotted, consistent with the mileage separation and city-grade service requirements of the Commission's Rules. The consideration of all factors shows that this proposal can be accommodated and that Channel 294A can be added to the FM Table of Allotments at Avon, North Carolina without jeopardizing any other community or facility. No community would lose any present or potential service and a substantial area of service would be added if this proposed allocation is granted. Finally, the allotment of Channel 294A at Avon, North Carolina results in first, local broadcast service.

III. PETITIONER'S INTENTION TO APPLY FOR CHANNEL 294A

If these proposed changes are implemented by the Commission, the Petitioner intends, pursuant to the Rules of the Commission, to file an application for a construction permit, and if awarded the permit, to promptly construct the facility. Financially, the Petitioner is qualified to construct and operate the facility sought.

**AVON BROADCASTING COMPANY
PETITION FOR RULE MAKING
PAGE FOUR**


IV. SUMMARY

No community will lose any present or proposed service as a result of a grant of this "Petition for Rule Making" and, furthermore, a substantial new area of service will be added. As indicated above, a grant of this "Petition" will provide a much needed, first, local, FM broadcast service to Avon, North Carolina. This "Petition" would, if granted, provide for an efficient utilization of both Commission and spectrum resources.

THEREFORE, in view of the foregoing facts, Petitioner requests that the FM Table of Allotments (Section 73.202(b)) be amended to allot FM Channel 294A to Avon, North Carolina

Respectfully submitted,

AVON BROADCASTING COMPANY

By: 

Richard J. Hayes, Jr.
Its Attorney

Richard J. Hayes, Jr.
Attorney at Law
8404 Lee's Ridge Road
Warrenton, Virginia 20186

540-349-9970

Date: July 16, 1998

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554**

IN THE MATTER OF:

**AMENDMENT OF SECTION 73.202(B)
TABLE OF ALLOTMENTS)
FM BROADCAST STATIONS
AVON, NORTH CAROLINA**

**BC DOCKET NO:
RM NO:**

NOTICE OF PROPOSED RULE MAKING

Adopted:

Released:

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the Petition for Rule Making submitted by Avon Broadcasting Company requesting the allotment of Channel 294A to Avon, North Carolina.
2. Channel 294A can be allotted to Avon, North Carolina in compliance with the Commission's minimum distance separation requirements as evidenced in the attached engineering statement. Petitioner states that the public interest would benefit from the allotment of this channel as it would provide Avon with a first, local FM broadcast service.
3. In order to effectuate this proposal, the Commission proposes to amend the Table of Allotments, Section 73.202(b) of the Commission's Rules with respect to the following community:

	Present	Proposed
Avon, North Carolina	-----	294A

4. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing guidelines are incorporated by reference, herein. NOTE: A showing of continuing interest is required by Paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before, and reply comments on or before, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the Petitioner, as follows:

Notice of Proposed Rule Making
Page Two

Richard J. Hayes, Jr., Esquire
8404 Lee's Ridge Road Road
Warrenton, VA 20186
Counsel to Avon Broadcasting Company

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b), of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 Fed. Reg. 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact the Mass Media Bureau (202) 418-2710. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An ex parte contact is a message (spoken or written) officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Chief, Policy and Rules Division
Mass Media Bureau

PETITION FOR RULEMAKING

The following engineering statement and attached exhibit have been prepared for Avon Broadcasting Company, and are in support of their Petition for Rulemaking to modify Section 73.202(b), Table of Allotments, of the Federal Communications Commission's Rules and Regulations.

The petitioner requests that the Table of Allotments be modified as follows:

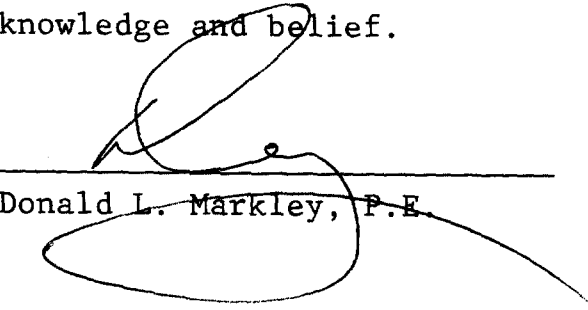
<u>City</u>	<u>Existing</u>	<u>Proposed</u>
Avon, NC	-----	294A

As shown on the attached single channel spacing study, channel 268A may be allocated to Avon with no site restrictions relative to the community. For the purposes of allocation, the reference coordinates for Avon, North Carolina, are 35° 21' 7" North Latitude and 75° 30' 39" West Longitude. If allocated, the petitioner will apply for the channel 260A allocation at Avon, North Carolina.

The preceding statement and attached study were prepared by me or under my direction and is true and

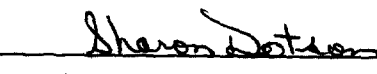
- 2 -

correct to the best of my knowledge and belief.



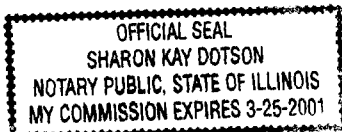
Donald L. Markley, P.E.

Subscribed and sworn to before me this 15th Day of July, 1998.



Notary Public

My commission expires:



Single Channel Study For: Avon, NC On Ch. 294 A -106.7 Mhz.

States Searched: NC, SC, VA, TN, GA, MD, DC, DE, WV, KY 35° 21' 07" N.
Run Date: 07-15-1998 75° 30' 39" W.

CHANNEL	ALLOTMENT OR STATION	CLASS	CALCULATED - KM. (MI.)	REQUIRED KM.	BEARING Deg. T.
240	NO CONFLICT				
241	NO CONFLICT				
291	NO CONFLICT				
292	NO CONFLICT				
293	NO CONFLICT				
294	NO CONFLICT				
295 WAFX	LIC Suffolk	VA C	196.28 (121.96)	165	325.70
295	USED Suffolk	VA C	196.28 (121.96)	165	325.70
296	NO CONFLICT				
297	NO CONFLICT				

*-Short Spaced

Only listings with clearances less than 32 Km. are shown.

This study utilized a copy of the FCC FM Database obtained directly from the Federal Communications Commission. D. L. Markley & Associates, Inc. believes this information to be accurate and current. However, D. L. Markley & Associates, Inc. does not assume any responsibility for any erroneous or incomplete data furnished as part of that database.